

about what it believes are onerous building permit and inspection and maintenance requirements in an ordinance recently adopted by the City of Cedar Hill, Texas. Cedar Hill, of course, is the very city where, just over a year ago, a broadcast tower collapsed and killed three persons.⁴⁰ That Cedar Hill strengthened its building permit, inspection and maintenance requirements in light of this disaster should be commendable; that the broadcast industry would use this as an example of the need for preemption lays bare its arrogant goal of federal immunity from even the most fundamental state and local laws designed to ensure public safety.

When industry's inapt, misdirected and sometimes redundant "examples" are stripped away, what is left is a rather meager, anecdotal record. Even assuming arguendo the accuracy of industry's descriptions and further assuming arguendo (in many cases) that the descriptions reveal any problem at all, industry has at best succeeded in mustering only around twenty-five so-called examples nationwide of what it believes are local government actions supposedly supporting the need for the proposed rules.

Viewed, as it must be, against a universe of over 30,000 local governments nationwide and over 13,500 licensed and operating television and radio stations nationwide, the flimsy record amassed by the industry actually points in the opposite

⁴⁰ Dallas Comments at 5 & Exh. A; NLC/NATOA Comments at 26.

direction of what industry wishes: The problem, if any, can charitably be described as anecdotal at best. The record certainly contains no reasoned basis whatsoever for the sweeping, draconian rules proposed. To the contrary, the record furnishes powerful evidence against adopting any broad, general preemption rules at all.

Obviously anticipating the woeful factual support that could be generated to support the proposed rules, NAB desperately tries to shore up this glaring shortcoming by requesting that the Commission take notice of the record in other Commission proceedings concerning proposals to preempt certain aspects of state and local zoning regulations relating to satellite earth stations and CMRS antennas.⁴¹ NAB Comments at iii & 20-22 & nn.28-33. But NAB's indolent effort to hide behind records in other Commission proceedings -- none of which have resulted in preemption rules even remotely as sweeping or intrusive as the NPRM proposes here -- simply emphasizes the vacuous nature of NAB's position.

⁴¹ NAB also stoops to the fatuous claim that the dearth of record support for its position may be due to broadcasters' "reluctan[ce] to speak publicly concerning ongoing disputes with states and local governments." Id. at 22 n.34. "As the Commission is well-aware" (id. at 20 n.27), broadcasters are hardly known for their reticence in promoting their interests before governments (indeed, NAB's assertion is akin to proclaiming the modesty of Dennis Rodman). Moreover, according to NAB's peculiar brand of logic, the absence of record support for the proposed rule is somehow evidence of the need for the proposed rule. This "heads industry wins, tails local governments lose" argument is an insult not only to state and local governments, but to the Commission as well.

As an initial matter, NAB is mixing apples and oranges. As even at least some industry commenters recognize, "there are tremendous differences between the land use considerations applicable to a 1000-foot television broadcast antenna on the one hand, and a ground-mounted satellite receive antenna in a residential zone on the other."⁴² Moreover, as we have already pointed out, unlike the NPRM here the Commission's preemption proceedings concerning satellite dishes and CMRS antennas were based on specific statutory authority, and yet even there the Commission neither proposed nor adopted preemption rules even approaching the breadth and scope of those proposed here.⁴³ See NLC/NATO Comments at 13-16. Finally, NAB's reliance on the stale, decade-old record in CC Docket No. 85-87 is, to the say the least, ironic, since based on that record, the Commission flatly rejected NAB's effort to piggy-back on the satellite earth station rules and, in the process, also specifically rejected claims that aesthetic considerations should -- and even lawfully could -- be preempted.⁴⁴

⁴² American Radio Relay League Comments at 6. See also American Tower Systems Comments at 2 ("federal government should pass a high hurdle before it may exercise federal power to preempt state and local governments [whose] regulations protect vital and important interests of communities and citizens").

⁴³ If the Commission is inclined to review the record in the satellite dish and CMRS proceedings, however, it should also take note of evidence in that record where broadcasters have been found to have failed to act in good faith with local authorities. See, e.g., Vermont Environmental Board Comments at Exh. J, WT Docket No. 97-192 (Oct. 8, 1997).

⁴⁴ See Satellite Earth Stations, 62 RR2d (P&F) 11, 14 (1987).

- C. The Record Leaves No Doubt That The Multiplicity of Tight Deadlines Imposed on Local Governments by the Proposed Rule Would Be Tantamount To Complete Preemption of All Local Land Use, Zoning and Building Code Laws Otherwise Applicable to Broadcasters.
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The NPRM proposes to impose a multitude of what even NAB concedes (at 16) are "tight" deadlines on state and local government action: from 21 to 45 days to act on any request relating to broadcast facilities; 5 days to draft and deliver a written decision supported by substantial evidence to the affected broadcaster(s); and apparently at most 15 days to prepare for arbitration if the broadcaster seeks it.

As the opening comments make abundantly clear, there is no doubt what the effects of the uniform, tight national deadlines in the proposed rule would be: The total evisceration of state and local law public notice and hearing requirements across the nation,⁴⁵ and "a complete preemption of any meaningful review [of land use, zoning and building code applications by broadcasters] by local governments."⁴⁶ As the Seattle City Council observed (at 2), the deadlines in the proposed rules "are impractical unless local government were to abdicate totally its responsibility to its citizens." Even a couple of broadcasters

⁴⁵ See, e.g., Philadelphia Comments at 10-11; Arlington/Henrico Comments at 17-20; CCO Comments at 37; Jefferson County Comments at 8-10; Connecticut Comments at 1; King County Comments at 2; Hampton Roads Comments at 3-5; Prince William Comments at 4-8; Seattle City Council Comments at 1-2; Dallas Comments at 22-23; College Park Comments; Dekalb County Comments at n.1; York County Comments at 1-2.

⁴⁶ Hampton Roads Comments at 4.

candidly concede that the NPRM's proposed deadlines on local governments are unrealistic.⁴⁷

The proposed national deadlines are also grossly hypocritical, giving broadcasters far more time and flexibility than local governments. Thus, in most cases local governments would be given the same or less time to make a land use decision (21 to 30 days) than a broadcaster is given to petition the FCC to review that decision (30 days). And local governments would be given only one-sixth as much time to draft and issue a decision that must be based on substantial evidence (5 days) than the broadcaster is given to prepare its FCC petition to review that decision (again, 30 days). Finally, while broadcasters seek to apply a rigid and short "shot clock" on local governments (NAB Comments at iii), broadcasters would of course continue to enjoy considerably greater flexibility, both in terms of DTV and non-DTV CP extensions⁴⁸ and under the generous 85 percent DTV penetration test of the Balanced Budget Act of 1997.⁴⁹

Although several industry commenters support the NAB's short "shot clock," none is able to articulate any rational nexus between the supposed problem and the truly sudden-death nature of

⁴⁷ Hubbard Broadcasting Comments at 4 (additional time needed to accommodate state and local law public notice and hearing requirements); WLEX-TV Comments at 4 (same).

⁴⁸ See 47 CFR § 73.624(d)(3) (DTV permittees may obtain up to two 6-month CP extensions from Mass Media Bureau based on inter alia, "zoning constraints"); 47 CFR § 73.3534(b) (allowing CP extensions for, inter alia, "zoning problems").

⁴⁹ See Pub. L. No. 105-33, 111 Stat. 251 (1997).

the multiple "shot clocks" proposed. Rather, industry resorts to conclusory assertions that any longer deadlines would "jeopardize" DTV (e.g., NAB Comments at 16) because, much like Humpty Dumpty, the industry said so.⁵⁰

One broadcast commenter, however, does attempt to show the reasonableness of the incredibly short deadlines in the proposed rules by pointing to the Commission's "own effort to act quickly" and "streamline its own procedures" for obtaining a DTV CP. Comments of North Carolina Broadcasters et al. at 9. But the supposed example of DTV CP grants to date serves only to confirm the unreasonableness of the NPRM's proposed deadlines. Under the NPRM shot clocks, two out of three (i.e., 67 percent) of the DTV CP's granted to date would have failed the 21-day test, and one out of three (i.e., 33 percent) would have failed the 45-day test. Id. at 9 & n. 18.

Moreover, analogizing the FCC's CP grant process with local land use, zoning and building code laws is wholly inappropriate. All land and all structures are unique. Thus, the land use, zoning and building code issues presented by each and every application for tower construction or modification are by definition unique. A CP applicant could propose to build a one-thousand foot tower out of bailing wire, balsa and glue and locate it within three feet of a (downwind) school playground, and of course, the Commission would have no way of knowing it. That is because such individualized factual matters are not

⁵⁰ See Lewis Carroll, supra, note 19.

relevant issues in the CP grant process. Such complicating matters are, however, relevant in the local land use and building code process.

D. Industry Efforts To Preempt Zoning Authority
Consideration of Aesthetics, Wildlife,
Environmental, Historic Property and Other
Traditional Land Use Concerns Are Both
Disingenuous And Unlawful.

Several industry commenters predictably support the proposed rules' apparent preemption of local zoning authority consideration of anything beyond very narrowly defined "health and safety" issues and, in particular, preemption of aesthetic considerations.⁵¹ One industry commenter goes even further, urging the Commission to revise the proposed rule to preclude consideration of a host of additional traditional land use issues, including wilderness areas, wildlife preserves, endangered wildlife habitats, historical sites, wetlands, deforestation and water diversion.⁵²

In other words, broadcasters want a preemptive federal right (enjoyed by no other industry) to locate and expand broadcast facilities virtually anywhere and however they please, regardless of the consequences to the environment, parklands, wetlands, historical sites, community appearance or integrity, or wildlife. As one planning authority noted, under the proposed rules "[t]he

⁵¹ E.g., NAB Comments at 14-15; APTS/PBS Comments at 7; Paxson Comments at 5-6; Benns Comments.

⁵² Comments of Calif. Broadcasters et al. at 10 & Exh. A (suggested new Section (B) (1) (iv) of proposed rule).

specter of a tower looming over historic Williamsburg" is quite real. Hampton Roads Comments at 6.

Industry's position on this issue is both legally and factually flawed. More than a decade ago, the Commission squarely rejected an almost identical argument, noting that the Supreme Court had recognized "that in certain situations, local aesthetic values will outweigh [even] First Amendment considerations." Satellite Earth Stations, 62 RR2d (P&F) at 14. A fortiori, aesthetic considerations may therefore outweigh the mere statutory interests in the Communications Act.

The effort of the California Broadcasters et al. to expand preemption to wipe out local consideration of environmental, wildlife, wilderness, historic sites, wetlands and similar classic land use concerns is likewise misguided. Broadcasters cite no authority -- nor are we aware of any -- suggesting that federal (albeit non-FCC) authority to protect wildlife, forests, parklands, wetlands, historic sites and other aspects of the environment is somehow preemptive in nature. To the contrary, state and local governments and the land use and environmental laws they enact and enforce are the primary protectors of aesthetic, environmental and economic aspects of land use.⁵³ Thus, what broadcasters really seek is to immunize themselves from a host of otherwise lawful state and local requirements designed to protect the environment, leaving broadcasters -- and only broadcasters -- free to abuse the appearance and integrity

⁵³ See, e.g., America Planning Association Comments at 2.

of our nation's communities, woodlands, wetlands, wildlife and vistas in any way whatsoever that is not prohibited by federal law. Such a frightening prospect should be roundly rejected by the Commission.⁵⁴

What is at stake is far more than distinguishing "engineering marvels" from "eyesores." NAB Comments at 14. "Planning and zoning are much more than 'aesthetics'; they are the democratic tools by which a community defines itself and makes itself a pleasant place to live and to work."⁵⁵ The issue is not whether aesthetics or community integrity or environmental preservation are subjective or objective standards. Rather, the issue is how those matters will be addressed and balanced: By the people themselves through their democratically elected local governments, or by fiat, either through the private decisions of broadcasters or through a distant, unelected federal agency with no expertise in those fields. We respectfully suggest that the answer is clear, and that the proposed rules should therefore be abandoned.

⁵⁴ Broadcasters, of course, express fear that aesthetics might be used as a pretext to "evade federal preemption," NAB Comments at 14. If the record reveals a pretext, however, it is that NAB's Petition, as well as industry comments supporting it, are using DTV as a pretext to gain sweeping, blanket immunity from traditional state and local laws that no other industry enjoys.

⁵⁵ Hampton Roads Comments at 7.

E. The Opening Comments Demonstrate That The Proposed Rules Pose Substantial and Unwarranted Public Safety Risks.

Opening commenters agreed with NLC and NATOA that the proposed rules would threaten the ability of local governments to protect public safety through effective enforcement of local zoning and building code provisions.⁵⁶ Even some industry members recognize that local setback requirements and building code laws are essential to protect public safety.⁵⁷

What industry fails to recognize, however, is that the tight national deadlines, "deemed granted" effect, and burden-shifting to local government aspects of proposed rules would gut the ability of local governments effectively to enforce safety requirements for broadcast towers and facilities.⁵⁸ Indeed, although industry professes to recognize the legitimacy of local governments' responsibility for public safety, some broadcasters nevertheless complain about the very types of local requirements -- property setback, contractor licensing, and building code

⁵⁶ See, e.g., Dallas Comments at 4-9; CCO Comments at 7-8; Jefferson County Comments at 7 & 10; Philadelphia Comments at 8-9; San Francisco Comments.

⁵⁷ See, e.g., Beaverkettle Comments at 3 (recognizing "obligation" of local zoning authorities to impose property line setbacks, property maintenance and upkeep and fencing requirements); Communications Facilities Comments at 3 (FCC "should not concern itself with structural safety issues involving communications antennas"); Calif. Broadcasters et al. Comments at 8 (conceding legitimacy of fall zone requirements).

⁵⁸ See, e.g., Seattle City Council Comments at 2; Jefferson County Comments at 7 & 10; San Francisco Comments; Dallas Comments at 4-9.

inspection and maintenance requirements -- that are essential to protect public safety.⁵⁹

As the broadcast industry's own leading trade publication admits, "the pressure to meet the FCC's [DTV] timetable could put a premium on speed rather than safety," and "the concern that the timetable might be putting workers and others at risk is a valid one."⁶⁰ In this environment, the last thing that the Commission should do is to adopt rules that would hamstring the ability of local governments to ensure that broadcast towers and facilities are located and constructed in a safe manner.

F. The Proposed Rules Would Threaten Aviation Safety and Impose Substantial Economic Costs on Aviators and Airports.

Several sectors of the aviation community -- including most industry trade associations and a host of state and local aviation and airport authorities -- strenuously oppose the proposed rules.⁶¹ They do so for two very good reasons.

⁵⁹ See, e.g., Susquehanna Comments at 3 (complaining about building permit, inspection and maintenance requirements of Cedar Hill, Texas, ordinance); New Mexico Broadcasting Comments at 3 (complaining about state contractor licensing requirements); WJJA-TV Comments (complaining about denial of variance based on inadequate setback).

⁶⁰ "A Tall Order," Broadcasting & Cable, Nov. 3, 1997, at 82.

⁶¹ See, e.g., Idaho DOT Comments; AOPA Comments; Asheboro Airport Authority Comments; Fulton County Board of Aviation Commissioners Comments; Gastonia Municipal Airport Comments; Natchez-Adams County Airport Comments; Michigan DOT Comments; KaZC Comments; Colorado Pilots Assn. Comments; Wyoming DOT Comments; Montana DOT Comments; Hulman Regional Airport Authority Comments; Rhode Island Pilots Assn. Comments; Experimental Aircraft Assn. Comments; Ala. Dept. of Aeronautics Comments; New Garden Aviation Comments; Kansas DOT Comments; NASAO Comments;

First, the proposed rules would pose a direct threat to aviation safety because, as a matter of federal statute, rules and policy,⁶² the FAA relies primarily on local zoning laws to enforce restrictions on hazards and obstacles (like broadcast towers) to air navigation.⁶³ As the Airports Council International, speaking on behalf of airports responsible for emplaning more than 96% of U.S. air traffic, observed (at 2): "The [nations'] airports rely on [state and local] authorities to enforce state and local statutes and ordinances that are critical to the safety of the flying public," and the NPRM's proposed rule "would impair those enforcement efforts." Similarly, the Air Transport Association of America (at 1), whose members account for more than 95 percent of air passenger and cargo traffic, believes that the proposed rules would "skirt[] a critical link in the chain of [air] safety."

Second, the aviation community points out that the proposed rules would impose massive costs on the nation's airports,

Ore. DOT Comments; Helicopter Assn. International Comments; Airports Council International Comments; Mass. Aeronautics Commission Comments; Maryland Aviation Administration; General Aviation Manufacturers Assn. Comments; Air Transport Assn. Comments; National Business Aviation Association Comments; Cal. DOT Comments; Wisconsin DOT Comments; Univair Aircraft Comments.

⁶² See, e.g., 49 U.S.C. §§ 47101(a)(1), (5) & (7) & § 47107(a); 14 CFR Part 77.

⁶³ See, e.g., AOPA Comments at 3; Mich. DOT Comments at 2; KAZC Comments, Experimental Aircraft Assn. Comments; Ala. Dept. of Aeronautics Comments; Helicopter Assn. International Comments at 2; Mass. Aeronautics Commission Comments at 1-2; Air Transport Assn. Comments at 2-4; National Business Aviation Assn. Comments at 6-7.

aviation industry, and the travelling public.⁶⁴ The reason is that, even if a tower is adequately marked and lighted, and even if it is not determined by the FAA to be a hazard to air navigation, its location and height can still have a significant effect on air commerce: "Where a tower is allowed to be improperly sited, airspace may be adversely impacted causing instrument approaches to be raised, reducing the ability of the travelling public to gain access to the airport during inclement weather, which ultimately impacts the accomplishment of the nation's business." Ore. DOT Comments at 2.⁶⁵ As one airport authority noted, "[i]t is very probable that many proposed towers will be constructed far enough away from an airport so as not to be a safety concern but, close enough to the airport to require an increase of visibility/ceiling minimums at individual airports." Hulman Regional Airport Authority Comments at 3.

The adverse economic consequences of such short-sighted placement of towers would truly be massive. It would threaten to strand or greatly diminish the value of billions of dollars that local governments and other regional authorities have invested in

⁶⁴ See, e.g., AOPA Comments at 4; Hulman Regional Airport Authority Comments at 2; N. Calif. Airspace Users Working Group Comments; Ore. DOT Comments at 2; Univair Aircraft Comments; Md. Aviation Admin. Comments at 2.

⁶⁵ Accord Md. Aviation Admin. Comments at 2 (even where FAA study determines that a tower is not a hazard, tower may nevertheless "obstruct an instrument approach path to the airport and reduce or eliminate the ability of aircraft to use that approach in low ceiling or visibility conditions," thereby constraining airport capacity and diminishing usefulness of airport).

airports, and impose substantial additional costs on airlines (and, as a result, on their passengers and air cargo customers). See id. When these substantial costs are added to the proposed rules' myriad other infirmities, the conclusion is clear: the proposed rules should be abandoned.

G. At Least In Their Current Form, The Alternative Dispute Resolution Provisions in the Proposed Rules Are Inappropriate.

The alternative dispute resolution ("ADR") provisions in the proposed rules are inappropriate, at least as they are currently structured. While NAB and some other broadcasters support the ADR provisions (e.g., NAB Comments at 17-20), they ignore several fundamental defects in those provisions.

As an initial matter, the incredibly tight time constraints of the ADR provisions (selection of arbitrator and completion of arbitration within 15 days of a broadcaster's request) are wholly unrealistic and, indeed, raise serious Due Process concerns.⁶⁶ Moreover, the ADR proposal raises serious additional constitutional issues, for it effectively delegates to an unidentified appointed mediator the awesome federal power to preempt the actions of otherwise sovereign state or local governments, and to do so without opportunity for public comment

⁶⁶ See, e.g., Jefferson County Comments at 9; Dallas Comments at 29-31; Chicago Comments at 33-34. See generally Part II(C) supra.

or without any safeguards normally present in court (or even FCC hearing) proceedings.⁶⁷

What industry fails to realize is that, unlike the Commission's use of ADR in other contexts (NAB Comments at 18), the ADR proposed in the NPRM is not between two private parties, nor even between a private party and the FCC. Rather, the rules propose a mandatory, abbreviated, and binding arbitration between a private broadcaster on the one hand, and a sovereign state or local government on the other. The legislative acts of democratically elected state and local governments, however, cannot and should not be equated with the private commercial practices of businesses that may be arbitrated or negotiated away by a mere mediator.

Moreover, the ADR mechanism proposed in the NPRM is decidedly one-sided: Only the broadcaster may choose ADR, and if it does, the local government is involuntarily dragged into a kangaroo court-speed ADR process, whether it likes it or not. Moreover, the arbitrator's decision apparently automatically becomes the Commission's. Aside from the fundamental Due Process problems of this approach, it departs from the entire concept of ADR. Rather than being a mechanism to encourage mutual resolution of disputes, the ADR provision in the NPRM seems nothing more than a vehicle to deprive local governments of the normal due process of Commission procedures and to allow the

⁶⁷ E.g., Jefferson County Comments at 9; CCO Comments at 52-53; Dallas Comments at 29-31.

Commission to delegate away the awesome responsibility of federal preemption. Accordingly, unless the ADR process is revised to make it truly and bilaterally voluntary, and unless the time constraints are expanded to provide time for truly meaningful mediation, the ADR process should be eliminated entirely.

H. Broadcasters' Arguments In Favor of Extending the Proposed Rules Beyond DTV To All Broadcast Facilities Are Sheer Bootstrap.

As a host of commenters (including at least two broadcasters) pointed out, there is no basis whatsoever for extending any preemption rule beyond DTV to include non-DTV broadcast facilities.⁶⁸ While most broadcasters (particularly radio broadcasters) predictably urge that the proposed rules' virtual immunity from local land use regulation be bestowed on all broadcasters, they offer nothing (other than obvious economic self-interest) to support their position.

The primary justification offered for extending the proposed rules beyond DTV is that failure to do so will result in "confusion and frustration" from the "complexity" of determining whether a given facility is "DTV-related."⁶⁹ In a similar vein,

⁶⁸ See, e.g., Dallas Comments at 31; Jefferson County Comments at 9; New York City Planning Comments at 8-9; Arlington/Henrico Comments at 11; Chicago Comments at 28-29. Accord Hubbard Broadcasting Comments at 5 n.3 (no need to apply proposed rule to AM radio); WLEX-TV Comments at 4-5 (same).

⁶⁹ NAB Comments at 8-9; North Carolina Broadcaster Assn. Comments at 9.

broadcasters also assert that there should not be "inconsistent regulatory treatment" of DTV and non-DTV broadcasters.⁷⁰

These claims are sheer bootstrap. Any "confusion," "frustration," "complexity" or "inconsistent treatment" would be the result, not of any action by state or local governments, but by a Commission decision to preempt coupled with the obvious distinctions already drawn by the Commission between DTV and other broadcast facilities not only in the NPRM (at ¶¶ 1-5; 10-14 & 16), but also in the FCC's rules, see, e.g., 47 CFR §§ 73.622-625. The Commission may not sweep aside longstanding state and local police powers based on mere administrative convenience, unhinged from the federal policy on which the preemption is supposedly based (here, DTV). To the contrary, the law is clear that the Commission may not wield the awesome club of preemption merely to "save its own bruised sense of symmetry" or to avoid what otherwise might be considered "administratively unseemly." NARUC, 533 F.2d at 613.

The vacuous nature of broadcasters' position on this issue is further confirmed by the pathetic nature of the other reasons they offer for extending preemption beyond DTV. Thus, some broadcaster commenters concede that grants of CP extensions are "routine," but that the "additional burdens" imposed on broadcasters and Commission staff by "routine" CP extension applications could be avoided if the proposed rules were extended

⁷⁰ Alabama Broadcasters Comments at 4.

to all broadcasters.⁷¹ That broadcasters would seriously suggest that the Commission should engage in unprecedented and wholesale preemption of state local zoning and land use laws just to lessen the burden of an admittedly routine CP extension process betrays both the arrogant and fatuous nature of their position.

Broadcasters' final argument is that extension of the benefits of wholesale preemption to all broadcast facilities will serve the general 47 U.S.C. § 151 interest of promoting widespread service. E.g., ALTV Comments at 4. We have already noted the legal infirmities of this position.⁷² Industry simply cannot come to grips with the fact that land use and zoning laws have co-existed with broadcast facilities for over sixty years, and throughout that period, the Commission has consistently found such local laws not to be an impediment to broadcast service.

Industry's position on this issue is, however, quite revealing. It confirms what should by now be clear to the Commission: Industry's aim in this proceeding is not to promote the rapid deployment of DTV. Rather, it is to use DTV as a pretext to gain sweeping immunity from state and local land use and building code laws. The industry's blatant plea for favoritism deserves a firm rejection by the Commission.

⁷¹ ALTV Comments at 4. Accord Silver King Broadcasting Comments at 3 (extension of CPs requires expenditure of "limited" FCC resources).

⁷² See Part I supra; NLC/NATOA Comments at 10-17.

CONCLUSION

For the foregoing reasons and those set forth in the opening comments of other parties opposing the proposed rules, the Commission should abandon entirely the rules proposed in the NPRM.

Respectfully submitted,

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December 1, 1997
WAFS1\53353.1\107647-00005